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## Conference

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

23 CR 302 (PGG)

HUMBEI AMARVEL BIOTECH CO.,  
LTD. and QINGZHOU WANG,

Defendants.

New York, N.Y.  
August 24, 2023  
2:30 p.m.

Before:

HON. PAUL G. GARDEPHE,

District Judge

## APPEARANCES

DAMIAN WILLIAMS

United States Attorney for the  
Southern District of New York

## ALEXANDER NOU LI

Assistant United States Attorney

DANIEL N. ARSHACK

Attorney for Defendant Humbei/Wang

MARLON KIRTON

Attorney for Defendant Chen

ALSO PRESENT: PHANESSIA LIAO, Mandarin Language Interpreter

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1 (Case called)

2 MR. LI: Good afternoon, your Honor.

3 Alexander Li, for the government.

4 MR. ARSHACK: Good morning -- good afternoon.

5 Daniel Arshack, on behalf of Mr. Wang. We filed a  
6 substitution, your Honor, for Marne Lenox.

7 THE COURT: Okay.

8 MR. KIRTON: Marlon Kirton and Mr. Cheng, for Yiyi  
9 Chen.

10 Good afternoon, your Honor.

11 THE COURT: Good afternoon.

12 All right. So, I'm going to terminate Marne Lenox as  
13 representation of defendant Wang, given the notice of  
14 appearance that have been filed by his new attorneys.15 Mr. Li, could you advise me on where we are in terms  
16 of discovery.

17 MR. LI: Yes, your Honor.

18 Since the arraignment on June 28th, the government has  
19 produced discovery in two tranches. We believe discovery is  
20 largely complete at this point. There is one substantial  
21 exception and that is the electronic devices of the defendants'  
22 which the government is attempting to search pursuant to a  
23 search warrant. We still have not been able to access those  
24 devices which are protected by security features. So, we are  
25 attempting to get into those devices. With the exception of

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1 those devices, discovery is, at this point, largely complete.

2 THE COURT: All right. Do you have any sense of when  
3 you'll know whether it's possible to access the defendants'  
4 electronic devices or whether that's just something that's not  
5 going to be possible?

6 MR. LI: Unfortunately, your Honor, we don't know  
7 whether or when we'll be able to get into those devices. My  
8 understanding is that it is essentially a brute force attempt  
9 to get into these devices by attempting variations of a pass  
10 code. And so, until we submit the right pass code we won't be  
11 able to get into those devices, your Honor.

12 THE COURT: Okay.

13 MR. ARSHACK: Your Honor, it's not clear to me whether  
14 the assistant was describing devices from both defendants or  
15 just from one of them.

16 THE COURT: Right. Could you clarify that, Mr. Li?

17 MR. LI: Yes, your Honor.

18 There are devices by both defendants. So,  
19 specifically, there are two cellphones from each of the two  
20 defendants. So, four cellphones in total, plus one laptop that  
21 belongs to Ms. Chen. In addition, in the warrant there was  
22 specified an external hard drive that belonged to Ms. Chen. It  
23 appears that external hard drive is actually a battery. So, it  
24 does not appear to be a data storage device.

25 THE COURT: Okay. All right. So, Mr. Arshack, you're

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1 new to the case. What have you been able to do so far with the  
2 discovery that's been produced?

3 MR. ARSHACK: I spoke and met with Marne Lenox  
4 yesterday, who had been assigned the case. She provided me  
5 with the flash drive with discovery on it. I have discovered  
6 that I'm able to open it and that's about as far as I've  
7 gotten. I do understand that there is an additional amount of  
8 discovery that the U.S. Attorney will provide me and to all of  
9 us, that's been just made available in the last several days  
10 that I haven't seen yet. I did notice when I was able to open  
11 the flash drive, there are a significant number of recordings,  
12 both audio and video, that are in Mandarin. It happens not to  
13 be a language that I speak or understand, and it will take some  
14 time to evaluate those and understand the significance of them.  
15 I do understand as well that the material that the U.S.  
16 Attorney is going to be providing to us is also recordings of  
17 voices in other languages.

18 If I can anticipate your next question, I was going to  
19 ask for another status conference in 60 or 90 days after we  
20 have had a chance to review this voluminous material. The  
21 first tranche in the flash drive, judge, 91 gigabytes. It's a  
22 lot of material to go through.

23 THE COURT: All right. Mr. Kirton, could you tell me  
24 where you are in terms of your review of the discovery.

25 MR. KIRTON: Your Honor, I would not oppose a 60-day

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1 adjournment for me to look to complete my review of discovery.  
2 My client also has a copy of the first production at the MDC.  
3 The problem is that she has not been able to access her  
4 discovery as of yet. She received it last week, sent by the  
5 government on a hard drive I supplied. Her date to review the  
6 discovery was supposed to be Monday, this week. She did not  
7 have an opportunity to review the discovery Monday or any other  
8 day that week. I just notified the government earlier today  
9 about her inability to access the discovery but we will be fine  
10 in terms of our ability to review the discovery eventually.

11 I think a 60-day adjournment for a status conference  
12 would be appropriate in this case.

13 THE COURT: All right. Mr. Li, anything you want to  
14 say?

15 MR. LI: No, your Honor. We stand ready to assist the  
16 defense in all matters including access to the discovery at the  
17 MDC.

18 THE COURT: All right. Based on Mr. Arshack's recent  
19 arrival on the case and magnitude of the discovery materials,  
20 and the fact that they are in Mandarin, I do think that the  
21 further adjournment is appropriate. So, I'm going to set  
22 October 24th at ten o'clock for our next conference. My hope  
23 would be when we meet again that we can set a motion schedule.  
24 So, I will be asking the defense lawyers about the pretrial  
25 motions that they anticipate bringing.

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1                   Does the government wish me to exclude time between  
2 then and now.

3                   MR. LI: Yes, your Honor. The government respectfully  
4 moves to exclude time until October 24th. We believe this is  
5 in the interests of justice, to allow counsel to review the  
6 discovery, particularly, newly appointed counsel would have not  
7 yet had an opportunity to do so, newly retained counsel, and  
8 for the parties to discuss any potential pretrial resolutions  
9 to the case.

10                  THE COURT: Is there any objection to the exclusion of  
11 time through October 24.

12                  MR. ARSHACK: No objection, judge.

13                  MR. KIRTON: No, your Honor.

14                  THE COURT: I will exclude time between today and  
15 October 24, 2023 under the Speedy Trial Act pursuant to Title  
16 18 U.S.C. Section 3161 (H) (7) (A), to permit defense to review  
17 the discovery materials and determine whether any pretrial  
18 motions will be necessary. I do find that the ends of justice  
19 served by granting of this continuance, outweigh the best  
20 interests of the public and the defendants in this speedy  
21 trial.

22                  I should say I received a letter from Mr. Kirton dated  
23 August 24th, which he suggests that the Court set a trial date  
24 for the second quarter of 2024 and set motions for the first  
25 quarter of 2024. I'm not going to set a trial date today.

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Given Mr. Arshack's very recent arrival in the case, and it is my hope that when I see you on October 24th, we will be able to set a schedule then for pretrial motions.

Yes, Mr. Arshack.

MR. ARSHACK: Could I ask my associate who is sitting next to me, actually speaks Mandarin, could I ask if he could have a moment with my client before he is taken back?

THE COURT: Absolutely.

MR. ARSHACK: Thank you.

MR. KIRTON: Your Honor, just one other thing. When I submitted the letter I was really concerned about my client being incarcerated for more than one year at the MDC. I laid out both in the bail application and plus my letter from yesterday, the problems of conditions of confinement at the MDC. I also learned today that she was having some trouble reviewing the discovery. So there appeared to be a number of issues that keep coming up at the MDC which applies to everyone, not just to her. So, I was concerned about her being incarcerated for more than one year. She's 31 years old, no prior record, as far as we know. I'm not asking for a trial date today because there are other factors but I just wanted to bring it to everyone's attention that we were looking at setting a date sooner rather than later.

THE COURT: Yes. I am completely sympathetic to that view and as I said, it is my hope that we can set a trial

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1 date -- excuse me -- set a motion schedule for October 24th and  
2 I am certainly willing to set a trial date at our next  
3 conference as well. And so why don't we just agree that when  
4 we meet again on October 24th we come prepared to talk about  
5 motion schedule as well as a trial date.

6 MR. KIRTON: Understood, your Honor.

7 THE COURT: Mr. Li, anything else?

8 MR. LI: No, your Honor.

9 THE COURT: Anything else on behalf of defendants?

10 MR. ARSHACK: No. Thank you, your Honor.

11 MR. KIRTON: No, your Honor. Thank you.

12 THE COURT: Thank you all, and good day.

13 (Adjourned)

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